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IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Application Number : 10/734,161 Confirmation No.: 2165
Applicant : Kevin T. FOLEY, et al.
Filed : December 15, 2003
Title : METHODS FOR PERCUTANEOUS SURGERY
TC/Art Unit : 3738
Examiner: David H. Willse

Docket No. : 64118.000045
Customer No. : 21967

MAIL STOP AMENDMENT

Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

SIXTH INFORMATION DISCLOSURE STATEMENT

Sir:

In accordance with 37 C.F.R. §§ 1.97 and 1.98, and in compliance with the duty of disclosure set forth in 37 C.F.R. § 1.56, applicants submit attached Form PTO-SB/08A for consideration and request the reference cited therein be made of record by the U.S. Patent and Trademark Office in the above-captioned application.

Consideration of the cited reference plus the prompt return of a copy of the enclosed Form SB/08A with the Examiner's initials in the left column in accordance with MPEP 609 are respectfully requested.

Applicants respectfully point out that the submission of the listed reference in this Information Disclosure Statement is not an admission that it is prior art or that it is material to patentability of any claims of the application. Also, the submission of this Information Disclosure Statement is not an indication that a search has been made by applicants.

This Information Disclosure Statement is being submitted after the mailing of a non-final Office Action, but is believed to be prior to a final Office Action or a Notice of Allowance. Pursuant to 37 C.F.R. § 1.97(c)(2), a check in the amount of \$180.00 as set forth in § 1.17(p) is enclosed. In the event any variance exists between the amount enclosed and the U.S. Patent and

Trademark Office charges, please charge or credit any difference to the undersigned's Deposit Account No. 50-0206.

Respectfully submitted,

HUNTON & WILLIAMS LLP

Dated: AUG. 21, 2006

By:



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INTERVIEW SUMMARY UNDER MPEP § 713.04

In accordance with MPEP § 713.04, Applicants are providing this Interview Summary. The Interview Summary provides the information identified in subsections (A) - (H) of MPEP § 713.04 under corresponding subsections below.

The interview was conducted on August 4, 2006 with Examiner David Willse, Interference Practice Specialist Jessica Harrison, Dr. Kevin Foley, Robert Schulman and Tyler Maddry. The Applicants wish to thank Examiner Willse and Interference Practice Specialist Harrison for providing an opportunity to discuss the application.

During the interview, the Applicants primarily addressed how the specification of the priority application, U.S. Patent No. 5,792,044 ("the '044 Patent"), conveys to one skilled in the art the subject matter claimed in the present application, U.S. Application No. 10/734,161 ("the present application"). In particular, the Applicants reiterated that the '044 Patent discloses, among other things, performing the entire surgical procedure through a single cannula, insertion of multiple fixation elements through the single cannula, the use of a working channel cannula of appropriate size for the surgical procedure, the use of pedicle screws, and the repositioning of the single cannula during the procedure. The Applicants also explained that the term "vertebral fixation elements" would have been interpreted by one skilled in the art to mean elements or

components of vertebral fixation systems, including at least bone screws, fixation plates, and rods; that these elements were well known in the art as of the filing date of the '044 Patent; and that pedicle screws are used in combination with plates or rods. The Applicants submitted, therefore, that one skilled in the art would understand that the Applicants were in possession of the claimed subject matter of the present application as of the filing date of the '044 Patent.

During the interview, Applicants provided copies of three additional references relating to pedicle screw fixation and the elements used in pedicle screw fixation. Applicants filed these three references in an Information Disclosure Statement on August 10, 2006.

Interference Practice Specialist Jessica Harrison indicated that Applicants would need to file a revised Suggestion of Interference based on the USPTO rules enacted in September 2004 after Applicants filed their Request for Declaration of Interference. Applicants are currently preparing a Suggestion of Interference pursuant to 37 C.F.R. § 41.202 and will be filing it in due course.

The following information is provided pursuant to MPEP § 713.04 subsections (A) - (H) under corresponding subsections.

- (A) Exhibit. Not Applicable.
- (B) Claims Discussed. Applicants discussed claim 9.
- (C) Prior Art. Not Applicable.
- (D) Proposed Amendments. Please refer to the Amendment filed July 3, 2006, claim 9.
- (E) Arguments. Please refer to the comments above and the Amendment filed July 3, 2006.
- (F) Other Pertinent Matters. None.
- (G) Results or Outcome of Interview. The Examiner agreed to reconsider the '044 Patent in view of the arguments presented during the interview. The Examiner agreed that pedicle screws inherently involve bone plates, rods and the like. The Examiner appeared to at least preliminarily agree that the term vertebral fixation elements would have been interpreted by one skilled in the art to mean elements or components of vertebral fixation systems, including at least bone screws, plates and rods.

(H) Interview by Electronic Mail. Not applicable.

If there are any questions regarding this Interview Summary or the application in general, the Examiner is encouraged to contact the undersigned to expedite prosecution. No fees are believed to be due with the filing of this Interview Summary. However, in the event any fees are necessary, please charge such fees, including fees for any extensions of time, to the undersigned's Deposit Account No. 50-0206.

Respectfully submitted,
HUNTON & WILLIAMS LLP

Dated: AUG. 21, 2006

By:



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TM/tmf

Substitute for form 1449A/PTO		Application Number 10/734,161
INFORMATION DISCLOSURE STATEMENT BY APPLICANT <i>(use as many sheets as necessary)</i>		Filing Date December 15, 2003
		First Named Inventor Kevin T. FOLEY
		Art Unit 3738
		Examiner Name David H. WILLSE
Sheet	1 of 1	Attorney Docket Number 64118.000045

U.S. PATENT DOCUMENTS

*Examiner Initials	Cite No.	DOCUMENT NUMBER Number - Kind Code (if known)	Publication Date MM-DD-YYYY	Name of Patentee or Applicant of Cited Document	Pages, Columns, Lines, Where Relevant Passages or Relevant Figures Appear
		US- 5,503,617	04-02-1996	Jako	

FOREIGN PATENT DOCUMENTS

*Examiner Initials	Cite No.	FOREIGN PATENT DOCUMENT	Publication Date MM-DD-YYYY	Name of Patentee or Applicant of Cited Document	Pages, Columns, Lines, Where Relevant Passages or Relevant Figures Appear	TRANSLATION	
		Country Code Number-Kind Code (if known)				YES	NO
						<input type="checkbox"/>	<input type="checkbox"/>
						<input type="checkbox"/>	<input type="checkbox"/>
						<input type="checkbox"/>	<input type="checkbox"/>

OTHER DOCUMENTS - NON-PATENT LITERATURE DOCUMENTS

*Examiner Initials	Cite No.	Include name of the author (in CAPITAL LETTERS), title of the article (when appropriate), title of the item (book, magazine, journal, serial, symposium, catalog, etc.), date, page(s), volume-issue number(s), publisher, city and/or country where published	TRANSLATION	
			YES	NO
			<input type="checkbox"/>	<input type="checkbox"/>
			<input type="checkbox"/>	<input type="checkbox"/>
			<input type="checkbox"/>	<input type="checkbox"/>

EXAMINER SIGNATURE

DATE CONSIDERED

*EXAMINER: Initial if reference considered, whether or not citation is in conformance with MPEP 609. Draw line through citation if not in conformance and not considered. Include copy of this form with next communication to applicant.